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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/524,682

**Applicant(s)**

DEROSA, PETER

**Examiner**

Nnenna N. Ekpo

**Art Unit**

2425

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-9, 12 and 19-28 is/are pending in the application.
- 4a) Of the above claim(s) 3, 10, 11 and 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9, 12, 19-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgement***

1. This Office Action is responsive to the arguments filed on January 16, 2009.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claim 28** is rejected under 35 U.S.C. 101 because the claim did not positively recite other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the methods steps.

### ***Response to Arguments***

3. Applicant's arguments filed 01/16/2009 have been fully considered but they are not persuasive.
4. Applicant argues on pages 8+ of the 01/16/2009 Remarks that the claim limitations "wherein the plurality of smart audio clips are generated by a head-end of the interactive content distribution system and stored in a database at the head-end" as now recited in claim 9, "wherein as the plurality of smart audio guide audio clips being uttered a corresponding visual presentation of the customized viewing-recommendations list is modified respectively" as now recited in claim 9, "wherein each recommended program is associated with at least one respective audio clip identifying content of the recommended program" as now recited in claim 19, "wherein the audiovisual signals are configured such that, upon generating of each of the audio clips associated with the at least one recommended program, a portion of the EPG

corresponding to the at least one recommended program becomes visually focused" as now recited in claim 20 and "retrieving at least one standardized audio clip and generating audiovisual signals associated with a program selection mechanism, the audiovisual signals including combining the at least one retrieved audio clip and one or more of the at least one standardized audio clip to identify the content of the recommended program" as now recited in claim 28 are neither disclosed nor taught by Aoki et al. (U.S. Patent No. 7,107,271) or Naimpally et al. (U.S. Publication No. 2003/0105639).

In response to Applicant's arguments, that neither Aoki et al. nor Naimpally et al. discloses wherein the plurality of smart audio clips are generated by a head-end of the interactive content distribution system and stored in a database at the head-end as now recited in **claim 1**, Examiner respectfully disagrees. Naimpally et al. discloses wherein the plurality of audio clips are generated by a head-end of the interactive content distribution system and stored in a database at the head-end in paragraphs 0007, 0015. In fig. 1, the method includes converting text files into speech files at a remote location and stored in a database, in paragraph 0015, Naimpally et al. discloses that the remote location is a text-to-speech (TTS) application server, 20 and it is well known that servers are used for distributing programs and other contents. Naimpally et al. discloses on paragraphs 0032 and 0049 wherein as the plurality of smart audio guide audio clips being uttered a corresponding visual presentation of the customized viewing-recommendations list is modified respectively.

In response to Applicant's arguments, that neither Aoki et al. nor Naimpally et al. discloses wherein each recommended program is associated with at least one respective audio clip identifying content of the recommended program as now recited in **claim 19**, Examiner respectfully disagrees. Aoki et al. discloses this feature in col. 5, lines 51-col. 6, line 28. For example, when a viewer designates soccer as their favorite game or a particular team/teams as their favorite team, when a soccer game or a viewers favorite team is approaching, the agent announces "your favorite game is airing" and viewer knows it's a soccer game or soccer team.

In response to Applicant's arguments, that neither Aoki et al. nor Naimpally et al. discloses wherein the audiovisual signals are configured such that, upon generating of each of the audio clips associated with the at least one recommended program, a portion of the EPG corresponding to the at least one recommended program becomes visually focused as now recited in **claim 20**, Examiner respectfully disagrees. Aoki et al. discloses with a broadest reasonable interpretation, an EPG is a scheduled broadcast television display on a screen with functions allowing a viewer to select or recognize content by time, channel etc. by using a remote control. Using this interpretation, figure 3 of Aoki et al. discloses at least one recommended program (a soccer game), a portion of the EPG (soccer game between Osaka VS. Nara) on channel 2 at 7 pm is displayed on a viewer's screen and spoken by an agent.

In response to Applicant's arguments, that neither Aoki et al. nor Naimpally et al. discloses retrieving at least one standardized audio clip and generating audiovisual signals associated with a program selection mechanism, the audiovisual signals including combining the at least one retrieved audio clip and one or more of the at least one standardized audio clip to identify the content of the recommended program as now recited in **claim 28**, Examiner respectfully disagrees. Naimpally discloses these features on paragraphs 0032 and 0049.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 19-21 and 27** are rejected under 35 U.S.C. 102(e) as being anticipated by Aoki et al. (U.S. Patent No. 7,107,271).

Regarding **claim 19**, Aoki et al. discloses an apparatus adapted for use in an interactive content distribution system, the apparatus comprising:

a recommendation subsystem configured to generate recommendations of available programs based upon viewer profile information and viewer content selection history, wherein each recommended program is associated with at least one respective

audio clip identifying content of the recommended program col. 5, lines 51-col. 6, line 28. For example, when a viewer designates soccer as their favorite game or a particular team/teams as their favorite team, when a soccer game or a viewers favorite team is approaching, the agent announces "your favorite game is airing" and viewer knows it's a soccer game or soccer team; and

a viewer subsystem configured to generate audiovisual signals associated with a program selection mechanism, including audio clips associated with at least one recommended program (see col. 5, lines 61-col. 6, line 28).

Regarding **claim 20**, Aoki et al. discloses everything claimed as applied above (see *claim 19*). Aoki et al. discloses the apparatus wherein the audiovisual signals include image representative signals associated with an EPG (see col. 6, lines 35-40), Aoki et al. discloses wherein the audiovisual signals are configured such that, upon generating of each of the audio clips associated with the at least one recommended program, a portion of the EPG corresponding to the at least one recommended program becomes visually focused (with a broadest reasonable interpretation, an EPG is a scheduled broadcast television display on a screen with functions allowing a viewer to select or recognize content by time, channel etc. by using a remote control. Using this interpretation, figure 3 of Aoki et al. discloses at least one recommended program (a soccer game), a portion of the EPG (soccer game between Osaka VS. Nara) on channel 2 at 7 pm is displayed on a viewer's screen and spoken by an agent).

Regarding **claim 21**, Aoki et al. discloses everything claimed as applied above (see *claim 19*). Aoki et al. discloses the apparatus wherein the audiovisual signals are adapted for presentation via a television (see col. 7, lines 27-44).

Regarding **claim 27**, Aoki et al. discloses everything claimed as applied above (see *claim 19*). Aoki et al. discloses the apparatus further comprising a speech generating unit configured to provide audio data related to recommended content (see fig 3, col. 5, lines 61-col. 6, line 28).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1, 2, 4-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Naimpally et al. (U.S. Publication No. 2003/0105639) in view of Aoki et al. (U.S. Patent No. 7,107,271).

Regarding **claim 1**, Naimpally et al. discloses a smart audio guide system (see fig 1, information appliance (28)) for use in conjunction with an interactive content distribution system (fig 1, integrated television (26)) that includes a distribution head-end (see fig 1, server (20)) that makes programming available for viewing on a video display device (see fig 1, television (30)) at a viewer subsystem (see paragraph 0015), the



viewer subsystem including an audio unit (see fig 2, stereo audio speakers (70)) to provide audio for the video display unit, the smart audio guide system comprising (see paragraph 0027, lines 1-5):

- a processing unit configured and operative to implement the smart audio guide system functions (see paragraph 0031);

- a smart audio guide audio package (speech files) that includes at least a plurality of smart audio guide audio clips (EPG, weather, news information) corresponding to the information (see paragraph 0005, lines 7-12); and

- a smart guide actuator (remote control, 72) that is configured and operative in response to one or more predetermined conditions to activate the processing unit (see paragraph 0037-0038);

wherein the plurality of smart audio clips are generated by a head-end of the interactive content distribution system and stored in a database at the head-end in paragraphs 0007, 0015. In fig. 1, the method includes converting text files into speech files at a remote location and stored in a database, in paragraph 0015, Naimpally et al. discloses that the remote location is a text-to-speech (TTS) application server, 20 and it is well known that servers are used for distributing programs and other contents, and said processing unit is configured and operative to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc) to be uttered in a predetermined mode at the viewer subsystem via the audio unit when activated to identify programs recommended for viewing at the viewer subsystem based upon the program list (see paragraph 0042),

wherein as the plurality of smart audio guide audio clips being uttered a corresponding visual presentation of the customized viewing-recommendations list is modified respectively (see paragraphs 0032 and 0049).

However, Naimpally et al. fail to specifically disclose a recommendation engine for providing a customized viewing-recommendations list for the viewer subsystem based upon the programming available from the interactive content distribution system and a customized viewing profile developed for the viewer subsystem.

Aoki et al. discloses a recommendation engine for providing a customized viewing-recommendations list (EPG information acquisition means, 106) for the viewer subsystem based upon the programming available from the interactive content distribution system and a customized viewing profile (recommendation to the user based on information accumulated in the preference database, 108) developed for the viewer subsystem (see col. 5, lines 34-54).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Naimpally et al.'s invention with the above mentioned limitation as taught by Aoki et al. for the advantage of providing programs the user may want to watch.

Regarding **claim 2**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 1*). Naimpally et al. discloses the smart audio guide system wherein at least one of the plurality of smart audio guide audio clips (see paragraph 0042, lines 11-15, channel 2-CNN Larry King Live etc) corresponding to a program is

generated by combining one or more audio clips identifying the program and at least one standardized audio clip (see paragraphs 0036 and 0049).

Aoki et al. discloses customized viewing-recommendations list (EPG information acquisition means, 106).

Regarding **claim 4**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 3*). Naimpally et al. discloses the smart audio guide system wherein the corresponding visual presentation is a graphical recommendation menu (EPG), and

the processing unit is further configured and operative to implement a focus frame (focused grid) that upon each of the plurality of smart audio guide clips being uttered, visually focuses a corresponding program grid of the graphical recommendation menu wherein the corresponding program grid is associated with a program identified by the audio guide audio clip (see paragraph 0049).

Aoki et al. discloses customized viewing-recommendations list (EPG information acquisition means, 106).

Regarding **claim 5**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 3*). Naimpally et al. discloses the smart audio guide system wherein corresponding visual presentation is an electronic program guide (EPG) and wherein the processing unit is configured and operative to implement a focus frame (focused grid) that visually focuses a corresponding program grid of the electronic

program guide , wherein the corresponding program grid is associated with a program identified by the smart audio guide audio clip (see paragraph 0049).

Regarding **claim 6**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 1*). Naimpally et al. discloses the smart audio guide system further comprising a speech generating unit (audio speaker), and wherein the smart audio guide audio package further comprises a plurality of smart audio guide text files (speech files); and wherein the processing unit is configured and operative to implement the speech generating unit to convert the plurality of smart audio guide text files into the plurality of smart audio guide audio clips (see abstract, lines 3-14 and fig 1 (18 and 22)).

Regarding **claim 7**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 1*). Naimpally et al. discloses the smart audio guide system wherein the viewer subsystem further includes a viewer control unit (see paragraph 0033, (infrared remote control, 72)) and wherein the smart audio guide actuator comprises a button on the viewer control unit, which when depressed, activates the processing unit to cause the plurality of smart audio guide audio clips to be uttered in the predetermined mode at the viewer subsystem via the audio unit (see paragraph 0037-0038).

Regarding **claim 8**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 1*). Naimpally et al. discloses the smart audio guide system wherein the smart audio guide actuator (remote control) comprises a set of instructions that activates the processing unit to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc) to be uttered in the predetermined mode at the viewer subsystem via the audio unit (see paragraph 0042).

Aoki et al. discloses the video display device (TV set) at the viewer subsystem is initially activated (when the program started) (see col. 7, lines 45-63).

Regarding **claim 9**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 1*). Naimpally et al. discloses the smart audio guide system wherein the smart audio guide actuator (remote control) comprises a set of instructions that activates the processing unit to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc) to be uttered in the predetermined mode at the viewer subsystem via the audio unit (see paragraph 0042).

Aoki et al. discloses at the conclusion of a programming period (program ended) (see col. 7, lines 58-61).

**Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Naimpally et al. (U.S. Publication No. 2003/0105639) and Aoki et al. (U.S. Patent No. 7,107,271) as applied to *claim 1* above, and further in view of Chang et al. (U.S. Patent No. 7,328,159).

Regarding **claim 12**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (see *claim 1*). However, Naimpally et al. and Aoki et al. are silent on the processing unit is configured and operative to temporarily discontinue the audio associated with programming being displayed via the video display device at the viewer subsystem when the plurality of smart audio guide clips is being uttered in a predetermined mode at the viewer subsystem via the audio unit.

Chang et al. discloses the processing unit is configured and operative to temporarily discontinue the audio associated with programming being displayed via the video display device at the viewer subsystem when the plurality of smart audio guide clips are being uttered in a predetermined mode at the viewer subsystem via the audio unit (see col. 2, lines 50-57).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Naimpally et al. and Aoki et al.'s invention with the above mentioned limitation as taught by Chang et al. for the advantage of accepting voice input.

**Claims 22 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (U.S. Patent No. 7,107,271) as applied to *claim 19* above, and further in view of Naimpally et al. (U.S. Publication No. 2003/0105639).

Regarding **claim 22**, Aoki et al. discloses everything claimed as applied above (see *claim 19*). Aoki et al. discloses audio clips (customized viewing recommendation lists) (see col. 5, lines 34-54).

However, Aoki et al. is silent on the apparatus wherein programs and their respective data are stored at a database at a head end within the interactive content distribution system.

Naipally et al. et al. discloses the apparatus wherein programs and their respective data are stored at a database at a head end within the interactive content distribution system (see abstract, lines 3-14, paragraph 0005).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Aoki et al.'s invention with the above mentioned limitation as taught by Naipally et al. et al. for the advantage of storing programs at the server.

Regarding **claim 28**, Aoki et al. discloses method adapted for use in interactive content distribution system, the method comprising:

generating recommendations of available programs based upon viewer profile information and viewer content selection history, wherein each recommended program has associated with it a respective audio clip (see abstract, fig 17, col. 10, lines 55-col. 11, line 13);

generating audiovisual signals associated with a program selection mechanism, the audiovisual signals including at least one retrieved audio clip (see col. 5, lines 61-col. 6, line 28); and audio clips (customized viewing recommendation) (see col. 5, lines 34-54).

However, Aoki et al. fails to specifically disclose retrieving, from a head end, at least one audio associated with a data.

Nairmpally et al. discloses retrieving, from a head end, at least one audio associated with a data (see paragraph 0022).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Aoki et al.'s invention with the above mentioned limitation as taught by Nairmpally et al. et al. for the advantage of downloading content from the server.

**Claims 23-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (U.S. Patent No. 7,107,271) as applied to *claim 19* above, and further in view of Ellis (U.S. Patent No. 7,370,343).

Regarding **claim 23**, Aoki et al. discloses everything claimed as applied above (see *claim 20*). However, Aoki et al. fails to specifically disclose the apparatus wherein normal presentation of the EPG is modified in response to the presence of recommended content within an EPG page.

Ellis discloses the apparatus wherein normal presentation of the EPG is modified in response to the presence of recommended content within an EPG page (see col. 21, lines 56-col. 22, line 9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Aoki et al.'s invention with the above mentioned limitation as taught by Ellis for the advantage of updating an EPG.



Regarding **claim 24**, Aoki et al. and Ellis discloses everything claimed as applied above (see *claim 20*). Ellis discloses the apparatus wherein an audio clip associated with recommended content is presented in response to the presence of recommended content within an EPG page (see col. 19, lines 21-45).

Regarding **claim 25**, Aoki et al. and Ellis discloses everything claimed as applied above (see *claim 24*). Ellis discloses the apparatus wherein an audio clip associated with recommended content is presented in response to user manipulation of the EPG to potentially recommended content (see col. 19, lines 54-65).

Regarding **claim 26**, Aoki et al. and Ellis discloses everything claimed as applied above (see *claim 19*). Aoki et al. discloses each of a plurality of audio clips associated with recommended content is presented (see fig 16, col. 10, lines 40-54).

However, Aoki et al. fails to specifically disclose the apparatus wherein in response to a user selection of a predefined graphical button.

Ellis discloses the apparatus wherein in response to a user selection of a predefined graphical button each of a plurality of audio clips associated with recommended content is presented (see col. 16, lines 39-col. 17, line 9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Aoki et al.'s invention with the above

mentioned limitation as taught by Ellis for the advantage of expanding the graphical button of the recommended program.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nnenna N. Ekpo/  
Patent Examiner  
April 17, 2009.

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